

R E M A R K S

Claims 1-6 are pending in this application. In the office action mailed July 17, 2003, the following was noted:

- 1) claims 15, 17, and 18 were rejected under 35 U.S.C. § 112, ¶ 2, as for "failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention" (office action, page 2);
- 2) claims 1-3, 5-6, 8-9, and 11-19 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,401,859 (Widmer et al.) (office action, page 2); and
- 3) claims 4, 7, and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,401,859 (Widmer et al.) (office action, page 4).

Reconsideration is respectfully requested.

Rejection under 35 U.S.C. § 112, ¶ 2 (office action, page 2)

The specification provides support for the subject matter of claims 15, 17, and 18. Specifically, the text on pages 5 and 6, under the heading "Shell Textures," explains how waveforms are employed to vary the texture of the shell. Therefore, the claims satisfy the requirements of the § 112, ¶ 2.

Rejections under 35 U.S.C. §§ 102(e) and 103(a)

The claims were rejected under either § 102(e) or § 103(a) in view of Widmer et al. However, Widmer et al. does not disclose, teach, or suggest creating a texture on the surface.

Rather, Widmer et al. discusses adding grooves or ribs to the shell, but otherwise not modifying the surface of the shell itself; Widmer et al.'s surface remains smooth and untextured. Further, no where in the patent is there any mention of the word texture (or an equivalent thereto) as disclosed and claimed in the application.

argue:
what is
texture?

To sustain a rejection based on anticipation under 35 U.S.C. § 102, "the reference must teach every element of the claim." M.P.E.P. § 2131 (8th ed., August 2001), page 2100-69. The M.P.E.P. goes on to state "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," quoting Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

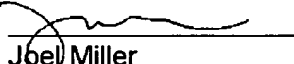
Because Widmer et al. does not disclose, teach, or suggest a textured surface, it cannot anticipate the claim. Nor does it render the claimed combinations obvious and there is no teaching or suggestion to modify Widmer et al. to achieve the claimed textured surface. 35 U.S.C. § 103; M.P.E.P. § 2143.03 (8th ed., August 2001), p. 2100-126 ("[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art"), citing In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974) [emphasis in original]. Because the reference fails to teach the claimed textured surface, they do not support a finding of obviousness. Additionally, there is no suggestion or teaching in the reference to modify it in such a manner that would result in the claimed invention. As the independent claims are allowable, dependent claims 3-7 and 9-10 are likewise allowable.

Conclusion

The applicant believes that it has responded to all of the issues raised in the office action and submits that all of the pending claims are allowable. Thus, it is respectfully requested that the examiner pass the application to allowance. The examiner is invited to call the undersigned if there are any questions concerning the application.

Dated: October 16, 2003

Respectfully submitted,


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